

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the  
Commission's Own Motion to Determine the  
Extent to Which the Public Utility Telephone  
Service Known as Voice Over Internet Protocol  
Should Be Exempted from Regulatory  
Requirements.

Investigation 04-02-007  
( Filed February 11, 2004)

**JOINT COMMISSIONERS' RULING DENYING MOTION  
TO MODIFY SCHEDULE FOR REPLY COMMENTS**

This ruling denies Verizon California Inc.'s (Verizon) Motion to Modify Schedule for Reply Comments. We acknowledge Verizon's concern that the Commission's inquiry lacks the breadth of participation likely before the Federal Communications Commission (FCC) but choose another means of ensuring the Commission's record reflects all viewpoints.<sup>1</sup> We solicit comment on whether the FCC's inquiry raises additional issues the Commission should consider. We will issue a ruling and scoping memo after reply comments are filed.

**Background**

Verizon requested that the reply comments in this proceeding be deferred until after reply comments are filed on June 28, 2004 in the FCC's proceeding addressing Voice over Internet Protocol (VoIP). (Notice of Proposed Rulemaking

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<sup>1</sup> Although Verizon expressed concern about the breadth of participation at the Commission, 30 sets of opening comments were filed by a wide range of participants.

(NOPR), *In the Matter of IP-Enabled Services*, WC Docket No. 04-36, FCC 04-28, released Mar. 10, 2004.) Specifically, Verizon requests either that reply comments in this proceeding be deferred until July 28, 2004 or that an additional round of comments be permitted on July 28, 2004. Verizon states the Commission should not close its proceeding prior to the commencement of the comment cycle in the FCC's inquiry, because the FCC's inquiry is likely to attract broader participation than the Commission's.

Ten parties filed responses to Verizon's Motion on or before April 29, 2004. The parties supporting Verizon's Motion<sup>2</sup> comment that other states have deferred action in their VoIP proceedings until the FCC acts, the Commission will have the benefit of allowing parties to incorporate the additional perspectives of parties that file before the FCC, and parties will be able to more efficiently use their resources.

The parties opposing Verizon's Motion<sup>3</sup> note that the Commission is more likely to base its decision on consumer interests than is the FCC, the real purpose of the Motion is to delay the Commission's decision until the FCC has acted, Verizon's motion, filed after its opening comments, is untimely, and the issues raised in this proceeding are policy issues and are unlikely to be affected by proceedings at the FCC.

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<sup>2</sup> AT&T Communications of California, Inc., Cox California Telcom, L.L.C., Citizens Telecommunications Company of California, Inc., et al., MCI, Inc., SBC California (Pacific Bell Telephone Company) and SBC-IP.

<sup>3</sup> The Consumer Protection and Safety Division, the Greenlining Institute, the Office of Ratepayer Advocates, the Peninsula Ratepayers' Association, and The Utility Reform Network.

## Discussion

The Commission considered the timing of its proceeding with full knowledge of the FCC's impending inquiry prior to opening this investigation. What the Commission did not know at that time was the scope of the FCC's proceeding. Not surprisingly, there is overlap in the issues considered; a determination of the regulatory treatment of VoIP necessarily involves similar considerations. For example, both proceedings request comment on adherence to universal service and E-911 requirements. It is also unsurprising that there are differences. In some aspects, the FCC's inquiry is broader than the Commission's. For example, the FCC does not limit its inquiry to voice telephony using IP technology and requests comment on whether regulatory treatment, exemption from regulatory treatment, or forbearance should depend on the specific type of IP-enabled service addressed.

Although Verizon's proposal is one means of factoring in the ongoing process at the FCC, it is not necessarily the most efficient for Commission purposes. It is also possible to determine whether issues raised at the FCC are relevant to the Commission's determination of the regulatory treatment of VoIP. To that end, parties may address in their reply comments whether the FCC's NOPR raises additional areas of inquiry the Commission should consider in addressing the appropriate regulatory treatment of VoIP. We will issue a ruling and scoping memo, which will resolve requests for hearing and finalize the scope of the proceeding, after parties file reply comments.

**IT IS RULED** that Verizon California, Inc.'s Motion to Modify Schedule for Reply Comments is denied.

Dated May 11, 2004, at San Francisco, California.

/s. GEOFFREY F. BROWN  
by Robert Wullenjohn

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Geoffrey F. Brown  
Assigned Commissioner

/s/ SUSAN P. KENNEDY  
by Tim Sullivan

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Susan P. Kennedy  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Joint Commissioners' Ruling Denying Motion to Modify Schedule for Reply Comments on all parties of record in this proceeding or their attorneys of record.

Dated May 11, 2004, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

**N O T I C E**

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